

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DIONTAE JOHAN DUNCAN,  
  
Plaintiff,  
  
v.  
  
CALIFORNIA HEALTHCARE  
RECEIVERSHIP CORP., et al.,  
  
Defendants.

Case No. 1:20-cv-01288-ADA-SKO (PC)  
  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS TO DISMISS  
CERTAIN CLAIMS AND DEFENDANTS  
FROM PLAINTIFF'S SECOND AMENDED  
COMPLAINT  
  
(ECF No. 75)

Plaintiff Diontae Johan Duncan ("Plaintiff") is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 13, 2023, the assigned Magistrate Judge filed findings and recommendations, recommending that Plaintiff's second amended complaint proceed only on his Eighth Amendment deliberate indifference to serious medical needs claims against Defendant Marciel, Graywall, Taylor, Gerderal and Jane Does #1 and #2. (*See* ECF No. 75 at 7-16.) Further, the Magistrate Judge recommended that the remaining claims be dismissed, and that Defendants California Healthcare Receivership Corp., Warden P. Phiffer, and Psychologist Rubbish be dismissed. (*Id.* at 16.) Plaintiff had fourteen days within service of the order in which to file any objections to the findings and recommendations. (*Id.*) On April 21, 2023, Plaintiff filed his objections to the

1 findings and recommendations. (ECF No. 77.) In his objections, Plaintiff appears to request the  
2 Court to adopt in full the Magistrate Judge's findings and recommendations and explains how the  
3 alleged actions in his complaint impact his wellbeing today. (*Id.* at 5.)


4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a  
5 *de novo* review of this case. Having carefully reviewed the file, including Plaintiff's objections,  
6 the Court finds the findings and recommendations to be supported by the record and proper  
7 analysis.

8 Accordingly,

- 9 1. The findings and recommendations issued on April 13, 2023, (ECF No. 75), are  
10 ADOPTED in full;
- 11 2. This action will proceed *only* on the Eighth Amendment deliberate indifference to  
12 serious medical needs claims pursuant to 42 U.S.C. § 1983 against Defendant Marciel,  
13 Graywall, Taylor, Gerderal, and Jane Does #1 and #2 (Claim I) in Plaintiff's second  
14 amended complaint;
- 15 3. The remaining claims in Plaintiff's second amended complaint are DISMISSED;
- 16 4. Defendants California Healthcare Receivership Corp., Warden P. Phiffer, and  
17 Psychologist Rubbish are DISMISSED from this action; and
- 18 5. The matter is referred back to the Magistrate Judge for further proceedings.

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20  
21 IT IS SO ORDERED.

22 Dated: May 31, 2023

  
UNITED STATES DISTRICT JUDGE